

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DARYL COOK	:	CIVIL ACTION
	:	
v.	:	
	:	
CITY OF PHILADELPHIA	:	NO. 08-2913

M E M O R A N D U M

ROBRENO, J. JULY , 2008

Plaintiff, a prisoner, is seeking to bring a civil action without prepayment of fees, alleging violations of his constitutional rights arising from his arrest by Philadelphia police officers.

Pursuant to 28 U.S.C. § 1915(g), a prisoner who on three or more prior occasions while incarcerated has filed an action in a federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied in forma pauperis status unless he was in imminent danger of serious physical injury at the time that the complaint was filed. Abdul-Akbar v. McKelvie, 239 F.3d 307 (3d Cir.), cert. denied, 533 U.S. 953 (2001).

Plaintiff has, prior to the instant action, filed two civil actions in this Court and an appeal to the Third Circuit Court of Appeals which were dismissed as frivolous.¹

Furthermore, nothing in this complaint suggests that plaintiff

1. Civil action no. 93-6287 was dismissed as frivolous on December 7, 1993, and plaintiff's appeal of the dismissal was dismissed as frivolous by the Third Circuit Court of Appeals on May 19, 1994. Civil action no. 94-3028 was dismissed as frivolous on May 24, 1994.

was in imminent danger of serious physical injury at the time the complaint was filed.

Accordingly, plaintiff's motion to proceed in forma pauperis will be denied. An appropriate order follows.

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O R D E R

AND NOW, this day of July, 2008, in accordance with the accompanying memorandum, **IT IS HEREBY ORDERED** that plaintiff's motion for leave to proceed in forma pauperis is **DENIED** pursuant to 28 U.S.C. § 1915(g).

The Clerk of Court shall **CLOSE** this case statistically.

BY THE COURT:

/S/ EDUARDO C. ROBRENO, J.

